IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.906 OF 2007

Shri Kishor Narhar Kanade
since deceased by his LRs.
Smt.Seema Kishor Kanade & Ors. .. Petitioners.
Vs.
Nandkumar Moreshwar Satghar & Anr. .. Respondents.

Mr.S.G.Karandikar for the petitioners.

CORAM : D.B.BHOSALE, J.

DATED : 9TH FEBRUARY, 2007

P.C.:

. Heard learned counsel for the petitioners.

2. This petition is directed against a decree of eviction passed in favour of the respondents-landlords on the ground available under section 16(1)(n) of the Maharashtra Rent Control Act, 1959. Both the courts below after having taken into consideration the evidence of the respondents-plaintiffs as also the documents produced by the petitioners-defendants in order to show that at the relevant time they were residing in the suit premises have recorded a categoric finding that the defendants have shifted to the alternate accomodation and they have kept the suit premises unused without sufficient/reasonable cause for more than six months before filing of the suit.

From perusal of the judgment it is clear that all the documents relied upon by the defendant were considered by the courts below. Merely because the ration card was not referred to in the judgment by the appeal court, as contended by Mr.Karandikar, learned counsel for the petitioners, the matter need not be remanded for its fresh consideration. The trial Court has considered the evidence in the form of ration card and has rightly observed that it is not sufficient to hold that the respondents-defendants were in possession of the suit premises as required under section 16(1)(n) of the Act. The appeal court has considered all other documents as also evidence of the plaintiffs while confirming the judgment of the trial Court. Considering that there are concurrent findings recorded by the courts below and as I find that there is sufficient material on record to sustain those findings and considering the extremely limited jurisdiction of this court under Article 227 of the Constitution of India to disturb the findings of fact this writ petition fails and dismissed as such.

(D.B.Bhosale, J.)